

1 Beverly Thorp
2 c/o Box 2070
3 Sunnyvale CA 94087
4 FC004
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Filed

APR 07 2008

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UNITED STATES DISTRICT COURT
Northern District of California
San Jose Division

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Plaintiffs:

Beverly Thorp

v.

Defendant:

Judge Robert Atack, et al.
Superior Court of Santa Cruz
701 Ocean St.
Santa Cruz CA 95060

Does 1 through 99

Case No. C 08 – 01449 HRL

**Request For Entry of
Default Judgment**

Request For Entry of Default Judgment

I, Beverly Ann Thorp, a flesh-and-blood woman, a human being, an Authorized Representative and Agent for BEVERLY THORP, sui juris, Ingenuitas juris et de jure, a State National citizen and NOT a Federal Zone citizen. Under a special appearance of Propria Persona, Without Prejudice, under the Uniform Commercial Code, UCC 1-207, UCC 1-103, and UCC 3-402, have first hand knowledge of the facts stated herein, and being competent in mind and body to testify, declare and affirm the facts stated herein are true correct, complete and admissible as evidence, in all material fact, not misrepresented and are made pursuant to the Laws of the Union of States of America and the California Republic.

UCC 1-207 Sufficiency of reservation.

Any expression indicating any intention to preserve rights is sufficient, such as "without prejudice," "under protest," "under reservation," or "with reservation of all our rights."

The making of a valid reservation of rights preserves whatever rights the person possesses and prevents the loss of such right by application of concepts of waiver or estoppel.

UCC 1-103 Common law.

The UCC Code is "Complementary" to Common Law which remains in force except where displaced by the Code.

All statutes should be construed in harmony with the Common Law unless there is a clear legislative intent to abrogate Common Law. ... "The UCC Code cannot be read to preclude a Common Law action."

The essence of procedural due process is fundamental fairness. de Koevend v. Board of Educ., 688 P.2d 219, 227 (Colo. 1984). The parties have a right to be heard when their rights are affected, and in order to enjoy this right they must first be notified. City of Chicago v. American National Bank & Trust Co. (1988), 171 Ill. App. 3d 680, 688, 121 Ill. Dec. 608, 525 N.E.2d 915. Due process requires, at a minimum, notice and the opportunity for a meaningful hearing before an impartial tribunal. Mathews v. Eldridge, 424 U.S. 319, 333, 348-49 (1976).

This Request For Entry of Default Judgment against the Defendant Judge Atack and Does 1 through 99 for failure to answer the Plaintiff's Complaint which ought to have been done. Town of Milton v. Bruso, 111 Vt. 82, 10 A. 2d 203, 205.

1 Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure the Defendant Judge Attack
2 and Does 1 through 99 have failed to file the required pleading or answer to the Plaintiff's
3 Complaint or otherwise defend the above-captioned action.

4
5 Specifically, the Defendant Judge Attack and Does 1 through 99 have failed to perform a
6 legal duty. *Easterwood v. Willingham*, Tex. Civ. App., 47 S.W. 2d 393, 395.

7
8 The Defendant Judge Attack and Does 1 through 99 have failed to contest the case.

9
10 Fraud and deceit may arise from silence where there is a duty to speak the truth, as well
11 as from speaking an untruth. *Morrison v. Coddington*, 662 P. 2d. 155, 135 Ariz. 480(1983).

12
13 Silence can only be equated with fraud when there is a legal and moral duty to speak or
14 when an inquiry left unanswered would be intentionally misleading. We cannot condone
15 this shocking conduct... This sort of deception will not be tolerated and if this is routine it
16 should be corrected immediately. *Norman v. Zieber*, 3 Or at 202-03; *U.S. v. Prudden*, 424
17 F.2d. 1021; *U.S. v. Tweel*, 550 F. 2d. 297, 299, 300 (1977).

18
19 Judge Attack and Does 1 through 99 failure to answer the Plaintiff's Complaint is tacit
20 consent by them of the validity of the document and the truths stated within the said
21 document, and for the disposition of any controversy without a trial as there are no disputes
22 to either material fact or inferences to be drawn from undisputed facts and no dispute in
23 the question of the laws involved and applied. *American State Bank of Killdeer v. Hewson*,
24 N. D., 411 N. W. 2d 57, 60.

25
26 The Defendant and Does 1 through 99 are not infants or incompetent persons, nor are they
27 in the military service.

28
29 The Defendant and Does 1 through 99 have been defaulted for failure to answer the
30 Plaintiff's Complaint in the required allotted time.

1 This Court has jurisdiction over the subject matter of this case and over the Defendants.

2
3 The venue as to the Defendants in the District Court of Northern California is proper.

4
5 The Plaintiff has the authority to seek the relief which has been requested.

6
7 **The Relief Requested by the Plaintiff**

8
9 1. I request the United States District Court **Declare Judge Attack and All of the Does 1**
10 **to 99 to be in Permanent Default.**

11 2. I request the United States District Court **DISQUALIFY Judge Attack IMMEDIATELY**
12 **and PERMANENTLY.**

13 3. I request the United States District Court **Declare ALL of Judge Attack's Rulings and**
14 **Judgments to be NULL and VOID.**

15 4. I request the United States District Court **Declare ALL of Judge Burdick's Rulings**
16 **and Judgments to be NULL and VOID.**

17 5. I request the United States District Court to **Declare Judge Attack and Judge Burdick**
18 **and All of the Does 2 to 99 to have operated as individuals** NOT in an official
19 capacity representing the State of California in their handling of Santa Cruz County
20 Superior Case, CV 155983, and each individual has yielded up any claim to
21 immunity from prosecution.

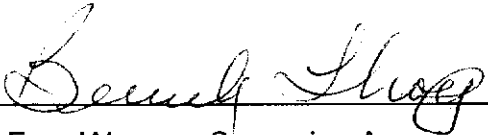
22 6. I request the United States District Court to allow me, the Plaintiff, to submit at a later
23 date damage claims for each above named who are named jointly, severally, and
24 individually.

25
26
27
28 Further, Beverly Thorp saith naught.

Without Prejudice, UCC 1-207, UCC 1-103, & UCC 3-402

7 April 2008

Beverly Thorp, an Authorized Representative and Agent



, In Propria Persona Sui Juris
A Free Woman, Sovereign American, with Constitutional Rights intact UCC § 3-402 (b)(1)
De Jure Soli, Jus Sanguinis, Coronea, Teste Meipso.

Reserving All Rights, Giving Up None.

Notice to agent is notice to principal. Noted to principal is notice to agent.

All Rights Reserved (UCC1-308)

PROOF OF SERVICE / DELIVERY

(CCP § 413.10 – 416.90)

I am a citizen of the California Republic. I am over the age of eighteen years. I am able and willing to testify to the facts stated herein.

I served the following document(s) on all appropriate parties in this action by placing a copy of the said document(s) in a sealed envelope, with postage attached, and deposited it with the U.S. Postal Service.

• **Request For Entry of Default Judgment** (FC004)

X I caused such envelope to be deposited in the mail with the U.S. Postal Service. The envelope was mailed with postage thereon fully prepaid. Mailed to each of the following:

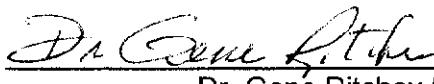
Judge Robert Atack, 701 Ocean St., Santa Cruz CA 95060.
Judge Paul Burdick, 701 Ocean St., Santa Cruz CA 95060.

___ The Proof of Service / Delivery signed by the authorized courier is on file and is available upon demand.

I am readily familiar with the practice of collection and processing correspondence for mailing. The above document(s) were deposited with the U.S. Postal Service within the time frame prescribed by law.

I declare, under penalty of perjury of the laws of the State of California the foregoing is true and correct.

7 April 2008



Dr. Gene Ritchey
c/o Box 2070
Sunnyvale CA 94087